IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 612 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

UNITED INDIA INSURANCE CO LTD.

Versus

MADHVANI ASHARAM DAHRAMDAS

Appearance:

MR PV NANAVATI for Appellant

MR SK JHAVERI for Respondent No. 1

NOTICE SERVED for Respondent No. 2

SERVED BY RPAD - (N) for Respondent No. 2

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 23/01/2003

ORAL JUDGEMENT

1. This First Appeal by the insurance company under Section 110-D of the Motor Vehicles Act, 1939 is directed against the judgment, order and award dated 5th December,

1979 passed by the Motor Accident Claims Tribunal No.4, Ahmedabad in M.A.C. Application No.165 of 1978 awarding Rs.20,500/- with interest at 6% per annum from the date of the petition till payment to respondent no.1.

2. The respondent no.1 had filed the said petition claiming Rs.48,800/- as compensation for the injuries sustained by him in a road accident involving a rickshaw driven and owned by respondent no.2. The Tribunal came to the conclusion that the accident was caused due to rash and negligent driving of the rickshaw by respondent no.2 and the respondent no.1 sustained injuries in the said accident. The Tribunal also came to the conclusion that the respondent no.1 was entitled to Rs.20,500/- as compensation.

3. It was contended on behalf of the insurance company, in their written statement, initially that their liability was limited to Rs.5,000/- and in the revised written statement, the figure was raised to Rs.10,000/-. The Tribunal, after considering the rival contentions and the evidence on the question of the liability of the insurance company, recorded the conclusion, in para 33 of the judgment, that the insurer would be liable to make good the award since the petitioner was a passenger in the offending rickshaw and the insurer had insured the rickshaw and the rickshaw owner with respect to the passenger in it and the overall limit would be Rs.50,000/- only. In the facts and circumstances of the case, the said conclusion was not unjustified. There is no reason to interfere with the award passed by the Tribunal. The appeal is, therefore, dismissed. No order as to costs.

(M.C. Patel, J.)
hki